

ASSEMBLY BILL

No. 2557

Introduced by Assembly Member Margett

February 24, 2000

An act to amend Section 3248 of the Civil Code, relating to payment bonds.

LEGISLATIVE COUNSEL'S DIGEST

AB 2557, as introduced, Margett. Payment bonds: public works.

Existing law requires every original contractor who is awarded a public works contract involving an expenditure in excess of \$25,000 to file a payment bond. Existing law requires that payment bond to be in a sum equal to (1) 100% of the total amount payable by the terms of the contract when that amount does not equal or exceed \$5 million, (2) 50% of the total amount payable when that amount is not less than \$5 million and not more than \$10 million, or (3) 25% of the total amount payable when that amount exceeds \$10 million.

This bill would delete those provisions and instead require that the payment bond be in a sum equal to 100% of the total amount payable by the terms of the contract for all public works contracts.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 3248 of the Civil Code is amended to read:

3248. In order to be approved, the payment bond shall satisfy all of the following requirements:

(a) The bond shall be in a sum not less than ~~that prescribed in the following paragraph which is applicable to the total amount payable:~~

~~(1) One hundred percent of the total amount payable by the terms of the contract when the total amount payable does not equal or exceed five million dollars (\$5,000,000).~~

~~(2) Fifty percent of the total amount payable by the terms of the contract when the total amount payable is not less than five million dollars (\$5,000,000) and does not exceed ten million dollars (\$10,000,000).~~

~~(3) Twenty-five percent of the total amount payable by the terms of the contract if the contract exceeds ten million dollars (\$10,000,000).~~

(b) The bond shall provide that if the original contractor or a subcontractor fails to pay (1) any of the persons named in Section 3181, (2) amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or (3) for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the contractor and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to the work and labor, that the sureties will pay for the same, and also, in case suit is brought upon the bond, a reasonable attorney's fee, to be fixed by the court. The original contractor may require of the subcontractors a bond to indemnify the original contractor for any loss sustained by the original contractor because of any default by the subcontractors under this section.

(c) The bond shall, by its terms, inure to the benefit of any of the persons named in Section 3181 so as to give a

- 1 right of action to those persons or their assigns in any suit
- 2 brought upon the bond.
- 3 (d) The bond shall be in the form of a bond and not a
- 4 deposit in lieu of a bond.

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